



Congress of the United States
House of Representatives
Washington, DC 20515-0529

117

February 16, 2016

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Dear Chairman Wheeler and Commissioners of the FCC:

On February 18, 2016, you will consider a proposal that has the potential to dramatically change the way Americans watch television. This proposal would open up the television set-top box market to third parties wanting to manufacture their own boxes or offer apps to consumers. As you know, this proposal has garnered vast national attention, owing to your impending vote and to its possible far-reaching effects, in a market that is delivering more choices for our constituents through over the top content and the recent rise of apps.

While we encourage growth and competition in the marketplace, too much government regulation can become burdensome and hurt the innovation it attempts to foster. It is important for the government to not stand in the way of innovation, and to not be overly prescriptive in regulation.

We have been approached by many companies, organizations and constituents that would be directly affected by this proposal, and as Representatives it is our responsibility to communicate their concerns.

We are proud to represent a community of talented and diverse independent programming providers that promote a vibrant vision of the American experience through their content. It is in our nation's best interest to make sure these minority-owned and independent providers are able to reach as many people as possible with high-quality, inclusive content.

As you continue to adjust the proposal in preparation for the meeting, we strongly urge you to take into account independent programmers. These providers share their work through carefully negotiated placement, scheduling, distribution and advertising agreements. Technology companies recognize this, and have declared that device manufacturers cannot violate contracts to which they are not party. The FCC General Counsel has addressed this concern by saying the proposal under consideration will maintain full protection of content, including restrictions on copying.

Any proposal must respect existing contracts so that independent and minority programmers can control the presentation of their content and secure funding essential for diverse voices to thrive in the marketplace.

The emergence of innovative content distribution mechanisms has allowed Americans to experience a vast array of quality television shows and compelling new networks. As we work to foster this growth, we

must be especially careful that we respect copyright, licensing agreements and anti-piracy policies. We ask you to be vigilant and avoid policies or regulations that would erode any of the protections content creators enjoy, particularly in regards to anti-piracy mechanisms that allow these programmers to stay in business, and copyright protections that ensure content creators the exclusive rights to determine how their work is distributed to the public.

Many independent and minority programmers lack the legal, financial or personnel means to police violations of intellectual property themselves, and depend on carriage agreements that allow them to stay in control of the distribution of their content. Without strong safeguards many of these programmers, who live and work in our districts, would fail to earn a living wage for their products, to the detriment of the entire nation, and in particular minority communities.

Additionally, any new proposal should maintain or enhance consumer privacy safeguards in order for consumers to feel secure in their consumption of quality television. We ask that you make sure consumer data is respected and cannot be disclosed without the viewer's consent.

Our country is the innovation capital of the world. As we continue to evolve towards a television environment that allows consumers unprecedented choice of content and device, we ask that you ensure any new proposal avoids excessive government regulation and keeps us on a path forward that embraces consumer choice, protects content creators and safeguards our data. We further ask that any and all concerns raised are thoroughly and seriously considered.

We thank you for your commitment and service to our nation and constituents.

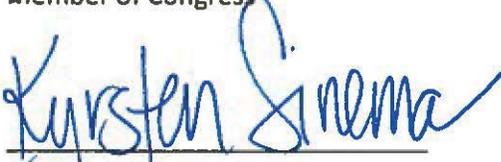
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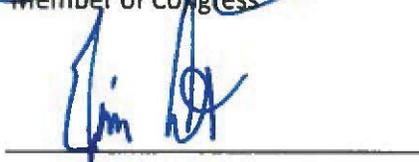

TONY CARDENAS
Member of Congress


LUIS V. GUTIÉRREZ
Member of Congress


JUAN VARGAS
Member of Congress

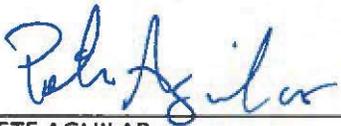

RAUL RUIZ
Member of Congress


KYRSTEN SINEMA
Member of Congress


JIM COSTA
Member of Congress



ALBIO SIRES
Member of Congress



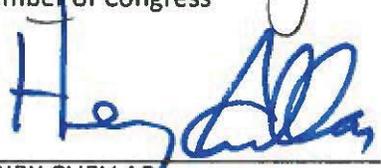
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HENRY CUELLAR
Member of Congress



KURT SCHRADER
Member of Congress



RUBEN GALLEGO
Member of Congress



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Member of Congress



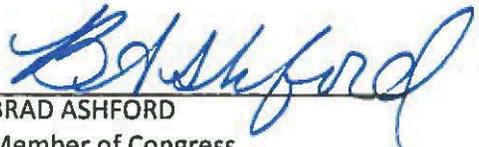
RON KIND
Member of Congress



ELIOT L. ENGEL
Member of Congress



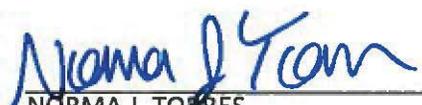
PEDRO R. PIERLUISI
Member of Congress



BRAD ASHFORD
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LORETTA SANCHEZ
Member of Congress



NORMA J. TORRES
Member of Congress



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BILL FOSTER
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DINA TITUS
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GRACE F. NAPOLITANO
Member of Congress



KATHLEEN M. RICE
Member of Congress



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 19, 2016

The Honorable Pete Aguilar
U.S. House of Representatives
1223 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Aguilar:

Thank you for your letter regarding the recent Notice of Proposed Rule Making (NPRM) seeking comment on how to better foster competition in the set-top box marketplace and Section 629 of the Communications Act. Your views are very important and will be considered as part of the Commission's review.

I share your admiration for today's television landscape. There is an abundance of rich content and new technology. As you point out, technology is paving the way for software and apps to help consumers. Consumers deserve a variety of choices to view the programming they want, when they want and on the device they want. More choices often drive down consumer costs and drive up innovation.

At the February 18th Commission meeting, we adopted a NPRM to fulfill the statutory requirement of competitive choice for consumers. Like all NPRMs, this action opens a fact-finding dialog to build a record upon which to base any final decision. To the extent that parties have concerns about any of the proposals in the NPRM they should submit specific recommendations for solutions or adjustments into the record.

The new proposed rules would create a framework for providing device manufacturers, software developers and others the information they need to introduce innovative new technologies. This new framework would make it easier for independent and minority-owned programmers to reach consumers while at the same time maintaining strong copyright, security, and consumer privacy protections. Nothing in this proposal changes a company's ability to package and price its programming to its subscribers, or requires consumers to purchase new boxes.

I also share your goal of ensuring this proposal benefits independent and minority programming. The proposal would facilitate competition in interfaces, search functions, and integration of programming sources, all of which would provide customers with a greater ability to access independent and minority programming. Our goal is to maintain the opportunity for those independent programmers who already have carriage on pay-TV system and provide additional opportunities for those independent programmers who currently cannot reach consumers of pay-TV providers because they are locked out of the system.

You also express concerns that rules intended to achieve Section 629's mandate could diminish the viewing experience and the economic underpinnings that support investment in innovative content, particularly in independent and minority-owned programming. The Commission's proposal preserves copyright protections and the NPRM seeks comment on whether and how we should take further actions to address the concerns you raise. For instance, the item asks numerous questions about how to protect the rights and negotiated agreements of content owners. The item also specifically states that "our regulations must ensure that Navigation Devices...cannot technically disrupt, impede or impair the delivery of services to an MVPD subscriber." In this vein, the NPRM asks a number of questions related to advertising and copyright concerns raised by content owners, including independent and minority-owned programming providers.

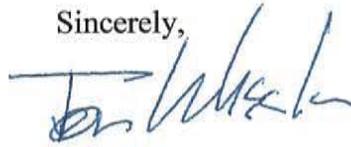
The Commission's proposal similarly ensures the security of content by looking to industry-standard practices. Specifically, the proposal would require third party device and app developers to meet "robustness" requirements, which dictate how resistant a device must be to various forms of hacking, that are set by the content holders, pay-TV providers, and content protections system makers themselves. In addition, the proposal would require third party devices and apps to honor entitlement information, such as what content a subscriber is entitled to (e.g., premium channels) and how the subscriber is entitled to use that content (e.g., by recording it or watching it on a mobile device), established by the terms of the subscriber's pay-TV subscription package. This content security proposal, which was informed by the congressionally-mandated report drafted by the technical experts on Downloadable Security Technology Advisory Committee, will ensure that all content, including independent and minority programming, is sufficiently secure to prevent theft and misuse.

You also discuss the importance of privacy protections for consumers under the new framework. Let me assure you that the proposal we adopted seeks to ensure that the privacy protections that exist today will also apply to alternative navigation devices and applications. Today, pay-TV providers abide by privacy obligations under Sections 631 and 338 of the Communications Act. These privacy obligations, among other things, prohibit pay-TV providers from disclosing to other companies personally identifiable information concerning any subscriber, including data about a subscriber's viewing habits, without the subscriber's prior written or electronic consent. The proposal tentatively concludes that third-party device manufacturers must afford consumers the same level of protection. Specifically, the proposal tentatively concludes that new device or app vendors must certify they are in compliance with the same privacy obligations as pay-TV providers. The proposal asks a number of questions about how best to enforce such a requirement. Additionally, the NPRM notes that today, competitive navigation devices such as TiVo must comply with a host of state and federal privacy protections that include various remedies for consumers. All of these protections and remedies would continue to apply under the proposal in the NPRM.

The issue before the Commission is how to satisfy Section 629 in a world of evolving technology. I agree with you that any rules we adopt must reflect marketplace realities, especially those faced by independent and minority-owned programmers. I assure you that is a paramount concern as we consider how to meet the statutory obligation.

I believe the Commission's proposal will lead to innovation that will improve consumer choice and help independent and minority-owned content providers better reach audiences. As we develop a record and explore fulfilling the statutory mandate, I look forward to continuing to work with you on this important consumer issue.

Sincerely,

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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 19, 2016

The Honorable Brad Ashford
U.S. House of Representatives
107 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Ashford:

Thank you for your letter regarding the recent Notice of Proposed Rule Making (NPRM) seeking comment on how to better foster competition in the set-top box marketplace and Section 629 of the Communications Act. Your views are very important and will be considered as part of the Commission's review.

I share your admiration for today's television landscape. There is an abundance of rich content and new technology. As you point out, technology is paving the way for software and apps to help consumers. Consumers deserve a variety of choices to view the programming they want, when they want and on the device they want. More choices often drive down consumer costs and drive up innovation.

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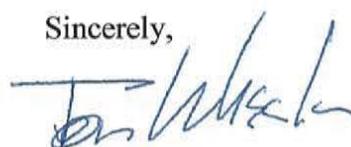
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 19, 2016

The Honorable Tony Cárdenas
U.S. House of Representatives
1510 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Cárdenas:

Thank you for your letter regarding the recent Notice of Proposed Rule Making (NPRM) seeking comment on how to better foster competition in the set-top box marketplace and Section 629 of the Communications Act. Your views are very important and will be considered as part of the Commission's review.

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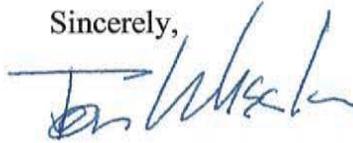
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 19, 2016

The Honorable Jim Costa
U.S. House of Representatives
1314 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Costa:

Thank you for your letter regarding the recent Notice of Proposed Rule Making (NPRM) seeking comment on how to better foster competition in the set-top box marketplace and Section 629 of the Communications Act. Your views are very important and will be considered as part of the Commission's review.

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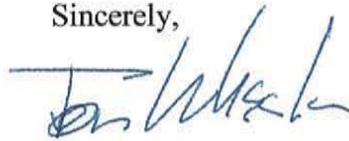
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 19, 2016

The Honorable Henry Cuellar
U.S. House of Representatives
2209 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Cuellar:

Thank you for your letter regarding the recent Notice of Proposed Rule Making (NPRM) seeking comment on how to better foster competition in the set-top box marketplace and Section 629 of the Communications Act. Your views are very important and will be considered as part of the Commission's review.

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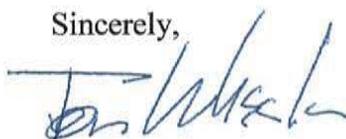
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I believe the Commission's proposal will lead to innovation that will improve consumer choice and help independent and minority-owned content providers better reach audiences. As we develop a record and explore fulfilling the statutory mandate, I look forward to continuing to work with you on this important consumer issue.

Sincerely,

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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 19, 2016

The Honorable Eliot L. Engel
U.S. House of Representatives
2462 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Engel:

Thank you for your letter regarding the recent Notice of Proposed Rule Making (NPRM) seeking comment on how to better foster competition in the set-top box marketplace and Section 629 of the Communications Act. Your views are very important and will be considered as part of the Commission's review.

I share your admiration for today's television landscape. There is an abundance of rich content and new technology. As you point out, technology is paving the way for software and apps to help consumers. Consumers deserve a variety of choices to view the programming they want, when they want and on the device they want. More choices often drive down consumer costs and drive up innovation.

At the February 18th Commission meeting, we adopted a NPRM to fulfill the statutory requirement of competitive choice for consumers. Like all NPRMs, this action opens a fact-finding dialog to build a record upon which to base any final decision. To the extent that parties have concerns about any of the proposals in the NPRM they should submit specific recommendations for solutions or adjustments into the record.

The new proposed rules would create a framework for providing device manufacturers, software developers and others the information they need to introduce innovative new technologies. This new framework would make it easier for independent and minority-owned programmers to reach consumers while at the same time maintaining strong copyright, security, and consumer privacy protections. Nothing in this proposal changes a company's ability to package and price its programming to its subscribers, or requires consumers to purchase new boxes.

I also share your goal of ensuring this proposal benefits independent and minority programming. The proposal would facilitate competition in interfaces, search functions, and integration of programming sources, all of which would provide customers with a greater ability to access independent and minority programming. Our goal is to maintain the opportunity for those independent programmers who already have carriage on pay-TV system and provide additional opportunities for those independent programmers who currently cannot reach consumers of pay-TV providers because they are locked out of the system.

You also express concerns that rules intended to achieve Section 629's mandate could diminish the viewing experience and the economic underpinnings that support investment in innovative content, particularly in independent and minority-owned programming. The Commission's proposal preserves copyright protections and the NPRM seeks comment on whether and how we should take further actions to address the concerns you raise. For instance, the item asks numerous questions about how to protect the rights and negotiated agreements of content owners. The item also specifically states that "our regulations must ensure that Navigation Devices...cannot technically disrupt, impede or impair the delivery of services to an MVPD subscriber." In this vein, the NPRM asks a number of questions related to advertising and copyright concerns raised by content owners, including independent and minority-owned programming providers.

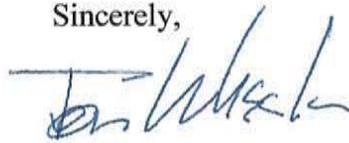
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 19, 2016

The Honorable Bill Foster
U.S. House of Representatives
1224 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Foster:

Thank you for your letter regarding the recent Notice of Proposed Rule Making (NPRM) seeking comment on how to better foster competition in the set-top box marketplace and Section 629 of the Communications Act. Your views are very important and will be considered as part of the Commission's review.

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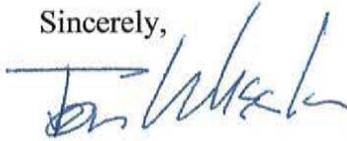
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 19, 2016

The Honorable Ruben Gallego
U.S. House of Representatives
1218 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Gallego:

Thank you for your letter regarding the recent Notice of Proposed Rule Making (NPRM) seeking comment on how to better foster competition in the set-top box marketplace and Section 629 of the Communications Act. Your views are very important and will be considered as part of the Commission's review.

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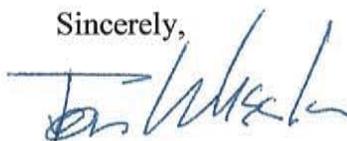
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 19, 2016

The Honorable Luis V. Gutiérrez
U.S. House of Representatives
2408 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Gutiérrez:

Thank you for your letter regarding the recent Notice of Proposed Rule Making (NPRM) seeking comment on how to better foster competition in the set-top box marketplace and Section 629 of the Communications Act. Your views are very important and will be considered as part of the Commission's review.

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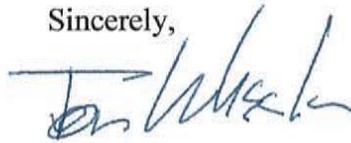
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 19, 2016

The Honorable Janice Hahn
U.S. House of Representatives
404 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Hahn:

Thank you for your letter regarding the recent Notice of Proposed Rule Making (NPRM) seeking comment on how to better foster competition in the set-top box marketplace and Section 629 of the Communications Act. Your views are very important and will be considered as part of the Commission's review.

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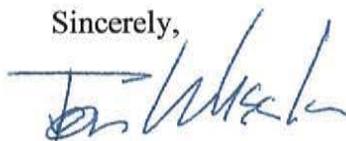
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 19, 2016

The Honorable Ron Kind
U.S. House of Representatives
1502 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Kind:

Thank you for your letter regarding the recent Notice of Proposed Rule Making (NPRM) seeking comment on how to better foster competition in the set-top box marketplace and Section 629 of the Communications Act. Your views are very important and will be considered as part of the Commission's review.

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